

# HOUSE BILL REPORT

## HB 2691

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**As Reported by House Committee On:**  
Appropriations

**Title:** An act relating to public retirement benefits for justices and judges.

**Brief Description:** Creating optional public retirement benefits for justices and judges.

**Sponsors:** Representatives Crouse, Fromhold, Conway, Lovick, Bailey, Kenney and Quall; by request of Select Committee on Pension Policy.

**Brief History:**

**Committee Activity:**

Appropriations: 1/23/06, 1/24/06 [DPS].

**Brief Summary of Substitute Bill**

- Provides justices and judges who are members of the Public Employees' Retirement System (PERS), Plans 1 and 2 with a 3.5 percent of pay per year of service benefit to a maximum benefit of 75 percent of pay.
- Provides justices and judges who are members of the Public Employees' Retirement System (PERS), Plan 3 a 1.6 percent of pay per year of service benefit to a maximum benefit of 37.5 percent.
- Justices and judges serving prior to January 1, 2007, have the option of ceasing participation in the Judicial Retirement Account, and accruing service at the higher benefit multipliers.
- The benefits are provided as an option for current justices and judges, and is mandatory for all those newly appointed or elected after January 1, 2007.

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Chandler, Clements, Cody, Conway, Darneille, Dunshee, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Miloscia, Pearson, Schual-Berke, P. Sullivan, Talcott and Walsh.

**Staff:** David Pringle (786-7310).

**Background:**

Since July 1, 1988, newly elected or appointed judges and justices have become members of the Public Employees' Retirement System (PERS) Plan 2. Since March 1, 2002, judges and justices without previously established PERS membership have had the choice to enter PERS Plan 2 or Plan 3.

The PERS Plan 2 provides members with an unreduced benefit of 2 percent of average final compensation for each year of service credit earned at age 65. The PERS Plan 3 provides members with an unreduced benefit of 1 percent per year of service credit earned at age 65, plus an individual member account of accumulated employee contributions plus investment earnings. A member of PERS Plan 2 or 3 may include any number of years of service towards the 2 percent or 1 percent formula in calculating their retirement benefit.

State-employed justices and judges, including those on the Washington Supreme Court, Courts of Appeals, and Superior Courts, also participate in a supplemental defined contribution program called the Judicial Retirement Account (JRA). The JRA was established in 1988, and members and employers each contribute 2.5 percent of pay to an individual member account. Distribution of the JRA is available to the member upon retirement as a lump-sum, or in other payment forms as made available by the administering agency, the Administrator of the Courts.

Between 1937 and 1971, judges participated in the Judges' Retirement Plan, and between 1971 and 1988, the Judicial Retirement System. Both plans offered a benefit capped at 75 percent of pay that could be accrued after approximately 21.5 years of service. Both systems are funded on a pay-as-you go basis, with member contributions between 6.5 percent and 7.5 percent of pay, and state contributions averaging in excess of 40 percent of pay. Judges who established membership in PERS Plan 1 prior to October 1, 1977, and who became judges after the closure of the Judicial Retirement System in 1988 remain members of PERS Plan 1.

Currently there are about 210 justices and judges at the Supreme Court, the Courts of Appeals, and the Superior Courts. In addition, there are about 230 District and Municipal Court judges. Superior Court judges, on average, become members of PERS at about 40 years of age - though some may first become PERS members in positions other than as judges. The average Superior Court judge retired in 2004 with a benefit from PERS Plan 2 of \$4,751 per month, based on a salary of \$9,502 per month and 25 years of service, and an accumulation in his or her JRA account of about \$277,000.

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**Summary of Substitute Bill:**

Additional Benefits

A justice or judge of the Supreme Court, Courts of Appeals, or Superior Courts participating in PERS and the JRA prior to January 1, 2007, may elect to discontinue future employee and

employer contributions into the JRA and earn a total 3.5 percent of average final compensation per year defined benefit, if a member of the Teachers' Retirement System (TRS) Plan 1, PERS Plan 1 or Plan 2, and a total 1.6 percent defined benefit if a member of PERS Plan 3.

For members of TRS serving as justices or judges of the Supreme Court, Courts of Appeals, or Superior Courts, the member contribution rate is 12.26 percent of pay. The employer contribution rate to TRS is unchanged.

The employee contribution rate to PERS for judges of District and Municipal Courts for members of PERS Plan 2 is 250 percent of the general PERS Plan 2 member contribution rate, and for members of PERS Plan 1 the member contribution rate is 12.26 percent of pay. The employer contribution rate to PERS for judges of District and Municipal Courts is unchanged.

A justice or judge participating in the 3.5 percent multiplier provisions provided for TRS Plan 1 and PERS Plan 1 or 2 may not accrue a benefit, in combination with benefits accrued prior to January 1, 2007, in excess of 75 percent of average final compensation. A justice or judge participating in the 1.6 percent of average final compensation provisions provided for members of PERS Plan 3 may not accrue a benefit, in combination with benefits accrued prior to January 1, 2007, in excess of 37.5 percent of average final compensation.

#### Contribution Rates

The employer contribution rate to PERS for justices and judges of the Supreme Court, Courts of Appeals, or Superior Courts is the established PERS employer contribution rate for general members, plus 2.5 percent of pay. The employee contribution rate to PERS for justices and judges of the Supreme Court, Courts of Appeals, or Superior Courts for members of PERS Plan 2 is 250 percent of the general PERS Plan 2 member contribution rate, less 2.5 percent of pay, and for members of PERS Plan 1 9.76 percent of pay.

For members of TRS serving as justices or judges of the Supreme Court, Courts of Appeals, or Superior Courts, the employer has the option to pay an additional contribution rate of up to 2.5 percent of pay, and the member contribution rate is 12.26 percent of pay, less any amount of the 2.5 percent of pay the employer opts to pay.

The employer contribution rate to PERS for judges of District and Municipal Courts is the established PERS employer contribution rate for general members, plus an optional 2.5 percent of pay. The employee contribution rate to PERS for judges of District and Municipal Courts for members of PERS Plan 2 is 250 percent of the general PERS Plan 2 member contribution rate, less any amount of the optional 2.5 percent of pay paid by the employer, and for members of PERS Plan 1 12.26 percent of pay less any amount of the optional 2.5 percent paid by the employer.

The optional employer contribution rates for TRS and PERS District and Municipal Court employers are not adopted by the Pension Funding Council.

#### **Substitute Bill Compared to Original Bill:**

The original bill provided an option for the employer of a TRS justice or judge of the Supreme Court, Courts of Appeals, or Superior Courts, or the employer of a judge of the District and Municipal Courts to pay up to 2.5 percent of the increased contribution rates required by the bill, and reduce the additional required employee contribution rate.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect on January 1, 2007.

**Testimony For:** We would like to thank you and the Select Committee on Pension Policy for hearing this bill and for the hard work in developing this proposal. The average age that judges enter the retirement system is late - about 47 years of age. This proposal doesn't cost the state anything with the elimination of the JRA, and will provide an important benefit improvement to the judges. We support removing the employer-optional contribution rate provisions from the bill. As long as local government employers are not put in the position of paying the additional optional rates, perhaps some judges are getting the employer rate and some not, we support the bill.

**Testimony Against:** None.

**Persons Testifying:** Michael Trickey and Leonard Costello, Superior Court Judges Association; and Rick Bathum, District and Municipal Court Judges Association.

**Persons Signed In To Testify But Not Testifying:** None.